IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.2024/07

Mahesh Kumar **Versus** State & Ors.

DATE OF ORDER :: 02/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Bhanwar Bagri, for petitioner

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By the instant petition, petitioner, who claims himself to be dependent upon deceased mother Smt. Sarbati Devi, who was serving the respondent as a Safai Karamchari, died while in service on 19th December, 1999, is seeking compassionate appointment under the Rules, 1996.

As per his averment in the petition apart from his father, they are four brothers and three sisters in their family. The sisters are married and all four brothers including petitioner as alleged were dependent upon the deceased. Petitioner himself is married which is also evident from the document Ann.2 where father is head of their family.

His main grievance is that he filed application, but the same has not been considered by the respondents for grant of compassionate appointment to him.

Rules of 1996 under which one can claim compassionate appointment is an exception where the dependent of deceased can be considered for appointment without undergoing the process provided under the relevant rules only to mitigate the hardship which is faced by the family on account of death of their breadearner. Except as alleged in Para 2 of the petition from which no inference can be drawn that the family was dependent upon their mother and on account of her death the family is in harness and needs employment for the destitute family. Ordinarily family is dependent upon father and mother always assist financially to the family.

In the instant case, she died in December, 1999 and she was jointly living together with her family. It cannot be presumed that on account of her death the family is in harness who can be considered for appointment under the Compassionate Rules.

Counsel has placed reliance on the judgment reported in 2005 (8) RDD-3171 is of no assistance to the petitioner for the reason that it was a case where petitioner approached this court without any delay and the petition remained pending in court for sometime and on objection raised by the respondent State it was observed by this court that laches on account of pendency in this court cannot be attributed upon petitioner to avail remedy available to him under law.

Even otherwise, no one can claim right to seek compassionate appointment under the Compassionate Rules, 1996.

Counsel further submits that he may be granted liberty to submit representation to the concerned authority.

In my considered opinion, the submission made has no substance for the reason that once this court is of the view that he is not entitled to seek compassionate appointment still permitting to make representation is of no significance.

Consequently, I find no merit in the petition, the same stands dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.